

1 LATHAM & WATKINS LLP  
2 G. Andrew Lundberg (SBN 108509)  
3 633 West Fifth Street, Suite 4000  
4 Los Angeles, California 90071-2007  
5 Telephone: (213) 485-1234  
6 Facsimile: (213) 891-8763

5 LATHAM & WATKINS LLP  
6 John D. Minton (SBN 223823)  
7 140 Scott Drive  
8 Menlo Park, California 94025  
9 Telephone: (650) 328-4600  
10 Facsimile: (650) 463-2600

11 Attorneys for Plaintiffs NETSCAPE  
12 COMMUNICATIONS CORPORATION  
13 AND AMERICA ONLINE, INC.

14 UNITED STATES DISTRICT COURT  
15 NORTHERN DISTRICT OF CALIFORNIA

16 **\*E-FILED - 6/28/07\***

15 NETSCAPE COMMUNICATIONS  
16 CORPORATION, a Delaware corporation, and  
17 AMERICA ONLINE, INC., a Delaware  
18 corporation,

19 Plaintiffs,

20 v.

21 NATIONAL UNION FIRE INSURANCE  
22 COMPANY OF PITTSBURGH, PA., a  
23 Pennsylvania corporation, and DOES 1 through  
24 50,

25 Defendants.

CASE No. C 05-01601 RMW

**STIPULATION RE: DISMISSAL OF  
ACTION; [] ORDER**

**STIPULATION**

The parties hereto, through their respective undersigned counsel of record, are agreed and hereby stipulate as follows:

1. The parties now have pending between them two actions arising out of a dispute over insurance coverage for the same underlying claim:

(a) National Union Fire Insurance Company of Pittsburgh, PA. and American International Specialty Lines Insurance Company v. Netscape Communications Corporation and America Online, Inc., Case No. 05 CV 3163 (DAB) (the “New York Action”), filed March 23, 2005; and

(b) this action (the “California action”), filed in state court on April 1, 2005 and removed to this Court on April 18, 2005.

2. On April 18, 2005, the plaintiffs in the instant California Action, Netscape Communications Corporation (“Netscape”) and America Online, Inc. (“AOL”), filed a motion in the New York Action to dismiss, stay or transfer the New York Action pursuant to Fed. R. Civ. P. 12(b)(3) and (6) and 28 U.S.C. § 1404(a) (the “New York Transfer Motion”).

3. On May 12, 2005, defendant in the instant California action (and plaintiff in the New York Action) National Union Fire Insurance Company of Pittsburgh, PA. (“National Union”) filed a motion in this action to transfer venue pursuant to 28 U.S.C. § 1404(a) (the “California Transfer Motion”).

4. In anticipation of a ruling on the New York Transfer Motion, in July 2005 the parties stipulated in this action to a stay of all proceedings herein, which stay the Court entered by its order of July 8, 2005. The New York Transfer Motion has been fully briefed since April 2005, but has not been decided.

5. The parties have now entered into a settlement resolving all of their disputes in connection with this action.

6. Accordingly, the parties request that this Court enter its order dismissing this action, and all claims, defenses and counterclaims included therein, with prejudice and

1 without right of appeal or other review, with each party to bear its own costs, attorneys' fees and  
2 other expenses in connection with this matter.

3 SO STIPULATED:

4 Dated: June 5, 2007

LATHAM & WATKINS LLP

G. Andrew Lundberg  
John D. Minton

6  
7 By /s/  
John D. Minton

8 Attorneys for Plaintiffs NETSCAPE  
9 COMMUNICATIONS CORPORATION AND  
10 AMERICA ONLINE, INC.

11 Dated: June 4, 2007

NIXON PEABODY LLP

Mitchell A. Stearn  
Kevin M. Grace

13  
14 By /s/  
Kevin M. Grace

15 Attorneys for Defendant NATIONAL UNION  
16 FIRE INSURANCE COMPANY OF  
17 PITTSBURGH, PA.

18 Filer's Attestation: Pursuant to General Order No. 45, § X(B), I attest that concurrence in  
19 the filing of this document has been obtained from its signatory.

20 Dated: June 5, 2007

21 /s/  
John D. Minton

22  
23 **ORDER**

24 Good cause therefore appearing, IT IS SO ORDERED.

25  
26 Dated: 6/28/07

*Ronald M. Whyte*  
Honorable Ronald M. Whyte  
United States District Judge